

## REMARKS

In the Official Action dated October 4, 2002, the Examiner rejected pending claims 1-21 under 35 U.S.C. §102(a) as being "clearly anticipated" by Gardner (US 2002/0029099). In addition, the Examiner rejected pending claims 1-21 under 35 U.S.C. §102(b) as being anticipated by either one of Dahl or FR 2,584,842.

For the reasons set forth below, Applicant traverses these rejections and respectfully requests reconsideration in view of the remarks herein.

### *Response to Rejections under 35 U.S.C. §102(a) (Gardner)*

The Examiner rejected pending claims 1-21 under 35 U.S.C. §102(a) as being anticipated by Gardner. Applicant respectfully points out that the present application is entitled to domestic priority under 35 U.S.C. § 120: as stated on the first page of the application and on the application data sheet, priority is claimed to U.S. Provisional Application No. 60/318,984, entitled "EMERGENCY FLIGHT CONTROL SYSTEM," filed on September 12, 2001 by James P. Conner, the inventor of the present application. Applicant notes that the Examiner has not acknowledged the domestic priority claim on the present Office Action, and respectfully requests such acknowledgement in the next communication.

Because Gardner has a filing date of October 11, 2001 and Applicant is entitled to a priority date of September 11, 2001, Gardner is not prior art under 35 U.S.C. § 102(a). Applicant therefore requests that the rejection under Gardner be removed.

### *Response to Rejections under 35 U.S.C. §102(b) (Dahl and FR 2,584,842)*

The Examiner rejected pending claims 1-21 under 35 U.S.C. §102(b) as being "clearly anticipated" by either one of Dahl or FR 2,584,842. According to MPEP §2131, in order to

establish a *prima facie* case of anticipation, the cited reference must disclose every element of the rejected claim. As to claims 1-21, Dahl neither shows nor suggests disabling cockpit control of an aircraft to prevent unauthorized control of the aircraft as Applicant has claimed. Instead, Dahl shows an *alternate*, wireless aircraft control system that provides redundant control of flight surfaces in the event that the primary means of control is damaged or destroyed. Thus, in Dahl's system, the cockpit controls are not disabled. When in use, Dahl's system deactivates the conventional flight control system of an aircraft and simultaneously activates the secondary wireless control system. Col. 10, lines 40-44. Thus, if an aircraft equipped with Dahl's system suffers, for example, a hydraulic failure, the pilot can still control the aircraft from the flight deck via the secondary system. Col. 10, lines 57-62. Dahl also suggests that a disabled aircraft, or one with a disabled pilot, can be controlled externally, but even in that case, Dahl makes no suggestion of disabling the cockpit controls.

All of Applicant's presently pending claims, either directly or through dependence from other claims, include the limitation of disabling cockpit control of the aircraft. Dahl therefore fails to anticipate claims 1-21. In addition, the Examiner has improperly grouped the remaining claims together in a common rejection under Dahl even though the rejection is not equally applicable to all claims in the group, as explained in MPEP §707.07(d). Specifically, at least claims 2, 4, 6, 8, 9, 11, 15-16, 18, and 20-21 include limitations, such as a novel first trigger and a second trigger for reversion to normal flight control, that are not shown or suggested by the cited portions of Dahl. Applicant therefore respectfully requests the Examiner to particularly point out the grounds for rejection of claims 2, 4, 6, 8, 9, 11, 15-16, 18, and 20-21 as required by MPEP §707.07(d), or remove the rejection under Dahl as to those claims.

The Examiner also relied on the French reference, FR 2,584,842 (Bortheyre) to reject claims 1-21. Bortheyre generally describes a system that redirects aircraft control to a secondary location, the system being activated "without any human input merely by the accelerated heart rate resulting from the fear or emotion of persons threatened by terrorists." See claim 1. In addition, aircraft control in Bortheyre results in "the control tower taking complete and exclusive control of [the aircraft]" through the use of "dual controls of the type found in aviation schools." See page 2 of translation.

In contrast, Applicant's presently pending claims 1-21, either directly or through dependence from other claims, include at least the limitation of establishing a safe, predefined flight path for the aircraft, or triggering the system either 1) manually; 2) externally; or 3) automatically based on deviation from a known flight path. Bortheyre neither shows nor suggests such triggering, and instead discloses and expressly claims a system that is activated "under the effect of fear or emotion of the [aircraft's] occupants." Page 2 of translation; see also claims 1-4. Moreover, Bortheyre does not suggest there is any motivation for modifying his system to include other types of triggers, and in fact strongly suggests that using heart rate to trigger the system, rather than other possible methods, is one of the novel and more useful features of his invention.

Bortheyre neither shows nor suggests either an external, manual, or automatic trigger or a predefined, safe flight path executed as a result of the trigger as Applicant claims, and thus fails to anticipate the invention.

## CONCLUSION

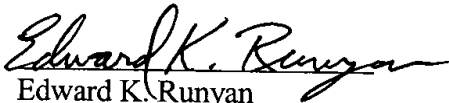
In light of the foregoing, Gardner is not a proper prior art reference under 35 U.S.C. § 102(a), and, in addition, both Dahl and Bortheyre fail to anticipate at least claims 1, 9, and 10.

Application of James P. Conner  
Serial No. 09/995,120  
Art Unit: 3644

Notice of the allowance of claims 1, 9, and 10 is therefore requested. Claims 2-8, 11, and 13-21 depend ultimately from claims 1, 9, and 10, so the allowance of claims 2-8, 11, and 13-21 will follow directly from the allowance of claims 1, 9, and 10. In addition, at least claims 2, 4, 6, 8, 9, 11, 15-16, 18, and 20-21 are allowable for the additional reasons discussed above. Applicant therefore submits that the application is now in condition for allowance, and notice to that effect is hereby requested. Should the Examiner feel that further dialog would advance the subject application to issuance, he is invited to telephone the undersigned at any time at (312) 935-2373.

Respectfully submitted,  
McDonnell Boehnen Hulbert & Berghoff

January 6, 2003

By:   
Edward K. Runyan  
Reg. No. 43,067  
Attorney for Applicant  
phone: (312) 935-2373  
fax: (312) 913-0002

Marked-up claims

Application of James P. Conner  
Serial No. 09/995,120  
Art Unit: 3644

1. (Amended) A method for controlling an aircraft, comprising:

receiving a first trigger;

disabling cockpit control of the aircraft in response to the first trigger; and

enabling a special reversionary mode to control the aircraft in response to the first trigger;

[whereby] wherein the special reversionary mode comprises entering into a known, safe flight path.

9. (Amended) A method for controlling an aircraft, comprising:

sensing a first triggering event;

generating a first trigger in response to the first triggering event;

receiving the first trigger;

disabling cockpit control of the aircraft in response to the first trigger;

enabling a special reversionary mode to control the aircraft in response to the first trigger;

wherein the special reversionary mode comprises entering into a known, safe flight path;

sensing a second triggering event subsequent to entering the special reversionary mode;

generating a second trigger in response to the second triggering event;

receiving the second trigger;

re-enabling cockpit control of the aircraft in response to receiving the second trigger; and

disabling the special reversionary mode in response to receiving the second trigger.

10. (Amended) Apparatus for controlling an aircraft, comprising:

## Marked-up Claims

Application of James P. Conner  
Serial No. 09/995,120  
Art Unit: 3644

an activator for generating an activation trigger; and

a switch communicatively coupled to the activator, the switch disabling cockpit control of the aircraft in response to the activation trigger, the activation trigger further enabling a special reversionary mode, wherein the special reversionary mode comprises entering into a known, safe flight path.